REMARKS / ARGUMENTS

Claims 1, 4-5 and 8 remain pending in this application. Claims 6-7, 9 and 21 have been canceled without prejudice or disclaimer. No new claims have been added.

35 U.S.C. §103

Claims 1, 4-9 and 21 stand rejected under 35 U.S.C. §103(a) as being anticipated by Troxel (U.S. Patent No. 6,147,970) in view of Chapman et al (U.S. Patent No. 6,023,456). These rejections are traversed as follows.

The claims have been amended to more clearly recite Applicants' invention in order to clearly define Applicants' invention over the cited art. According to present invention, as recited in claim 1, the bandwidth monitoring method includes the steps of determining whether a received packet is of a specific type or not, monitoring whether the received packet violates a contract bandwidth, and when the received packet does not violate the contract bandwidth and does not correspond to the specific type of packet, transmitting the received packet after converting it to a packet having a specific value indicative of the specific type of packet in its header.

Therefore, a communications service can effectively use the contract bandwidth allocated to priority packets by transmitting non-priority packets within the

contract bandwidth. This feature is neither disclosed nor suggested by any of the cited references. For example, Troxel discloses a priority upgrade outlet 71 which allows for situations where, if a node has extra unused capacity 74, packets which are non-conforming may be upgraded so as to be conforming (see column 17, lines 23-26). However, this portion only refers to how to treat non-conforming packets as conforming packets.

On the other hand, claim 1 recites the conversion of a packet that does not violate the contract bandwidth and transmitting that packet as a specific type of packet. In other words, the present invention is directed to the upgrading of a packet that is conforming (not violating the contract bandwidth), while Troxel discloses the upgrading of a packet that is non-conforming.

The deficiencies in Troxel are not overcome by resort to Chapman et al. Chapman et al fail to disclose or suggest the transmission of conforming packets that do not correspond to the specific types of packets as a packet corresponding to the specific types of packets by converting the packet to have a specific value in its header. As such, it is submitted that the pending claims patentably define the present invention over the cited art.

Claim 8 has been amended to clarify that, according to the claimed method, if the received packet corresponds to the specific type of packet and violates the contract bandwidth, it is transmitted as a packet other than the specific type of packets. This limitation, in combination with the limitations of claim 1, further defines

the present invention over Troxel. The Examiner is hereby invited to contact the undersigned by telephone with any questions in order to expedite prosecution of this application.

Conclusion

In view of the foregoing, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

By _____
Shrinath Malur
Reg. No. 34,663
(703) 684-1120